

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Marguerite L. Hanley
Joan V. McIntyre

NASD Arbitration
No. 93-02322

v

Name of Respondents

Soares Financial Group, Inc.
DeWayne C. Soares
Mark D. Booth

REPRESENTATION

For Claimant: Nancy B. Miller, Esq. - Capitola, California

For Respondents: Walter L. Baumgardner, Esq. - Musilli, Baumgardner, Wagner & Parnell,
P.C. - St. Clair Shores, Michigan

CASE INFORMATION

Statement of Claim filed: June 11, 1993

Amended Statement of Claim filed: January 28, 1994

Claimant's Submission Agreement signed: April 26, 1993

Statement of Answer filed by Respondent, Soares Financial Group, Inc.: September 13, 1993

Submission Agreement signed by Respondent, Soares Financial Group, Inc.: September 9, 1993

HEARING INFORMATION

Hearing Dates / Sessions: April 14, 1994 - One Session
May 11, 1994 - Two Sessions
July 21, 1994 - Two Sessions
July 22, 1994 - Two Sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Joan V. McIntyre brought this claim pursuant to a Power of Attorney executed in her favor by her mother, Marguerite L. Hanley (Hanley). By way of her claim, Hanley alleged that Mark Booth, while employed by Respondents, Soares Securities Group and DeWayne C. Soares, (Soares), disregarded Hanley's stated investment goals, recommended illiquid investments, inflated Hanley's income and net worth, submitted false information and forged signatures and that all said unsuitable investments were solicited by Booth. Hanley also claims against Soares for failure to supervise Booth.

Respondent, Soares, alleged that Claimant knew, or in the course of ordinary care should have known, of the risks involved in the investments in which she was investing, but nevertheless in knowing these things, did freely and voluntarily assume all the risks involved in the investments. Respondent also alleged that damages, if any, were a direct, proximate and sole result of Claimant's failure to use reasonable diligence and care.

RELIEF REQUESTED

Claimant seeks to recover losses on investments, penalties, and commissions in the sum of not less than \$150,000.00, punitive damages in the sum of \$300,000.00, \$150,000.00 in damages for emotional distress, prejudgment interest, attorneys' fees and costs.

Respondents seek dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On April 14, 1994, the first scheduled hearing session, Walter L. Baumgardner, Esq., substituted in as attorney of record for Respondents, DeWayne C. Soares and Soares Financial Group, Inc. Respondents' attorney moved for a postponement. The panel granted said postponement under the following conditions:

1. Respondent, Mark Booth, who did not appear, would be precluded from offering any defenses at the hearing.
2. Discovery would remain open for Respondents for a period of 20 days (May 5, 1994) after which date no new discovery would be permitted.
3. Claimant was permitted to submit a cost bill which would be taken under consideration by the panel when the hearing convened.
4. The panel would entertain motions for sanctions against Respondents for actions causing the postponement of the hearing.

5. Respondents. were ordered to pay a postponement fee of \$750.00 to the NASD no later than April 25, 1994.
6. Respondents were ordered to deposit \$1,500.00 in hearing session deposits no later than April 25, 1994.
7. The hearing was ordered to proceed on May 11, 1994 at 08:00AM.
8. Claimant's Attorney dismissed, with prejudice, the following respondents:

Financial Resources Associates
United Pacific Securities, Inc.
Walter Kiernan, Jr.
Elaine R. Kiernan

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

All claims against Respondent, Mark D. Booth, are withdrawn, without prejudice.

1. Respondents, Soares Financial Group, Inc., is liable and shall pay to Claimant, Marguerite L. Hanley, the sum of One Hundred Nine Thousand, Four Hundred Fifty Dollars and No Cents (\$109,450.00), which includes the sum of Six Thousand Three Hundred Seventy Nine Dollars and Thirty Cents (\$6,379.30) in costs incurred due to the postponement of the initial hearing date.
2. Claimant's claim for punitive damages is denied.
3. Each and every claim of Claimant against Respondent, DeWayne Soares, as an individual Respondent, is dismissed.
4. The parties shall each bear their respective attorneys' fees.
5. The NASD shall retain all fees and deposits.

FORUM FEES

Respondent Soares Financial Group, Inc.. is assessed fees in the amount of \$5,250.00 representing fees for seven hearing sessions at \$750 each.

Pursuant to Section 43(c) of the Code of Arbitration Procedure.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

Name

Robert L. Liu

James H. Schilt

Lawrence N. Kummer

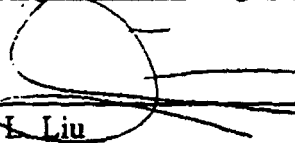
Public / Industry

Public

Public

Industry

Concurring Arbitrators' Signatures


Robert L. Liu

James H. Schilt

Lawrence N. Kummer

Date of Decision:

August 27, 94

Date Served: 09/15/94

FORUM FEES

Respondent Soares Financial Group, Inc., is assessed fees in the amount of \$3,250.00 representing fees for seven hearing sessions at \$750 each.

Pursuant to Section 43(c) of the Code of Arbitration Procedure,

Fees are payable to the National Association of Securities Dealers, Inc.

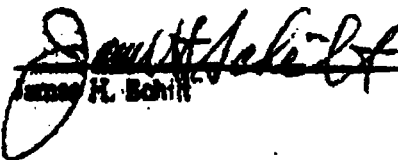
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